

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

**DERWIN T. GRIGGS,
#198159**

Plaintiff,

v.

MAJOR CLAY STEWART, et al.,

Defendants.

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CIVIL ACTION NO. 3:07-cv-691-MHT

DEFENDANTS' ANSWER

COME NOW Chambers County, Alabama Detention Center Officers, Chief Jail Administrator Clay Stewart, Captain Thomas Sims, Lieutenant LaKesha McCoy, and Sergeant Felton Spradlin, Defendants in the above-styled cause, and answer the Plaintiff's Complaint as follows:

Answer

The Defendants in this action deny each and every allegation made by the Plaintiff, Derwin T. Griggs, and demand strict proof thereof. The Defendants deny that they acted, or caused anyone to act, in such a manner so as to deprive the Plaintiff of his constitutional rights. Plaintiff's Complaint does not contain numbered Grounds for his claims. Defendants admit that some of the facts stated in Plaintiff's Complaint occurred, but Defendants answer with a General Denial of all claims that any of the Defendants violated Plaintiff's constitutional, statutory, state, or other rights.

Affirmative Defenses

1. Contrary to Alabama law, Plaintiff has filed the same action in state court and in federal court. Ala. Code 1975, § 6-5-440.

2. The Plaintiff's Complaint, separately and severally, fails to state a claim upon which relief may be granted.

3. The Defendants in this action, in their individual capacities, are entitled to qualified immunity from the Plaintiff's claims.

4. The Defendants in this matter, in their official capacities, are entitled to absolute immunity from the Plaintiff's claims pursuant to the Eleventh Amendment to the United States Constitution.

5. Defendants in their official capacities are not "persons" under 42 U.S.C. § 1983.

6. Plaintiff has not exhausted his remedies under Alabama law, specifically his right to appeal the denial of his Grievance with the Chambers County Detention Center, followed by his right to file a claim with the State Board of Adjustment.

7. Plaintiff has not stated an injury.

8. Not only is the Plaintiff unable to prove a violation of his rights under the United States Constitution or federal law, but he has failed to even allege any violation of the United States Constitution or any federal law.

9. Defendants reserve the right to supplement this Answer by adding additional affirmative defenses as the facts of this case are developed and if discovery is ordered by the Court.

Respectfully submitted this 9th day of October 2007.

s/Winthrop E. Johnson

WINTHROP E. JOHNSON, Bar No. JOH086
Attorneys for Defendants Chambers County,
Alabama Detention Center Officers, Chief Jail
Administrator Clay Stewart, Captain Thomas Sims,
Lieutenant LaKesha McCoy, and Sergeant Felton
Spradlin

WEBB & ELEY, P.C.

7475 Halcyon Pointe Drive (36117)

Post Office Box 240909

Montgomery, Alabama 36124

Telephone: (334) 262-1850

Fax: (334) 262-1889

E-mail: wjohnson@webbeley.com

CERTIFICATE OF SERVICE

I hereby certify that on this the 9th day of October 2007, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system.

I also hereby certify that on the **9th day of October, 2007** I have mailed a true and correct copy of the foregoing by United States Mail, postage prepaid, to the following non-CM/ECF participant:

Derwin T. Griggs, #198159
Pro Se
Elmore Correctional Facility
P.O. Box 8
Elmore, AL 36025

s/Winthrop E. Johnson
OF COUNSEL